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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 CASE NO. 18-MD-2865 (LAK)

4 IN RE:)
5)
6 CUSTOMS AND TAX ADMINISTRATION OF)
7 THE KINGDOM OF DENMARK)
8 (SKATTEFORVALTNINGEN) TAX REFUND)
9 SCHEME LITIGATION)
10))
11 This document relates to)
12 case nos. 19-cv-01866, et al.)
13))
14))
15))
16 C O N F I D E N T I A L
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25))
 REPORTED BY: MICHAEL FRIEDMAN, CCR

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1 A N D R E W W A L L,
2 called as a witness, having been first
3 duly sworn according to law, testifies as follows:
4
5

6 EXAMINATION BY MR. OXFORD:

7 Q I think you can put your hand down,
8 now, Mr. Wall.

9 A I'm not too sure whether Mike heard
10 me or not. I was waiting for him to ask me
11 to resubmit.

12 Q Okay. Mr. Wall, we have an echo.

13 MR. OXFORD: Does anybody else hear
14 that? Okay it's gone.

15 Q Mr. Wall, good morning and good
16 afternoon. Again, my name is Neil Oxford. I
17 represent the plaintiff SKAT in this case. I
18 will be asking you some questions today.

19 Just so we have a clear record, I'm
20 going to give you a couple of instructions to
21 make it easier for Mike to take it all down.

22 If you would please let me finish
23 my question before you start to answer, that
24 will make it easier for Mike to take it down.
25 And similarly, I will try to let you finish

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1 entitled to a dividend did not mean that they
2 would receive a dividend in the case of
3 Annex E. The shares as identified in the
4 Rosenblatt letter here, the shares sold was
5 sold -- short sold by MPT Dubai, and as such,
6 a payment was made by MPT Dubai in the form
7 of a dividend to the pension plan.

8 The entitlement alone, taken in
9 isolation, would not entitle them to a
10 dividend, no.

11 Q Aside from the fact that MPT Dubai
12 made a contractual payment to the pension
13 plans as opposed to a real dividend, were
14 there any other problems with the Annex E tax
15 vouchers?

16 MR. BINDER: Objection to form,
17 vague, ambiguous.

18 A The Annex E tax vouchers in
19 relation to MPT Dubai are incorrect in that
20 they mention the withholding tax amount
21 suffered on the dividend payment and it
22 mentions a percentage as well. There was no
23 dividend paid in the case of MPT Dubai, so
24 there was no tax paid, and the percentage
25 shown to be paid as withholding tax is

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1 incorrect.

2 Q Any other inaccuracies that you're
3 aware of?

4 A Well, to be accurate, I would need
5 just for you to point me towards a tax
6 voucher and I would be able to show that to
7 you.

8 Q Okay. Great. We'll look at a tax
9 voucher and come back to that question. I
10 don't want to slow us down here.

11 Last point on this document. At
12 the end on Page 2, Rosenblatt writes,
13 "MPT Dubai had no involvement in any of the
14 transaction which led to ED&F Man's
15 production of the 340 disputed tax vouchers,
16 which makes them distinguishable from the
17 Annex E vouchers."

18 Do you see that, sir?

19 A I do.

20 Q Can we agree that the problem with
21 the Annex E tax vouchers was not simply the
22 fact that MPT Dubai was the seller of the
23 shares? It was that MPT Dubai had not
24 covered its short at the time of the sale of
25 the shares to the plans?

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1 A To my understanding, looking at the
2 documents in preparation for today, the issue
3 was that MPT Dubai short sold shares that
4 they didn't have. The issue -- the issue is
5 not around the settlement.

6 Did you mention settlement? Sorry.
7 Could you just repeat the question so I can
8 answer it properly?

9 Q Can we agree that the problem with
10 the Annex E tax vouchers was not simply the
11 fact that MPT Dubai was the seller of the
12 shares? It was that MPT Dubai had not
13 covered its short sales at the time of the
14 sale of the shares to the plans?

15 MR. BINDER: Objection to form.

16 A It was around the fact that
17 MPT Dubai short sold the shares. The
18 covering of the shares was not the issue.

19 Q What do you mean, "the covering of
20 the shares was not the issue?"

21 A The covering of the short position
22 was not the issue. The issue is the fact
23 that MPT Dubai short sold shares.

24 Q Okay. So if another -- if another
25 counterparty who wasn't called MPT Dubai